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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,144	06/01/2001	Erik K. Jurvis	25039A	3286
22889	7590	12/15/2003	EXAMINER	
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			HORTON, YVONNE MICHELE	
			ART UNIT	PAPER NUMBER

3635

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/873,144

Applicant(s)
ERIK K. JURVIS

Examiner
YVONNE M. HORTON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 15, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 7, 9-13, and 15-17 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9-13, and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Withdrawal of Allowable Subject Matter

1. The indicated allowableness of claims 9-13,15 and 16 is withdrawn in view of the newly discovered reference(s) to HEATH, Jr et al. Rejections based on the newly cited reference(s) follow.

Claim Objections

2. Claims 1 and 6 are objected to because of the following informalities: In claim 1, lines and 11, the phrase “wherein each receiver...extending siding strip” repeats that which was already cited in lines 8 and 9 of the claim. Claim 6, repeats that which is already cited in line 11 of claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 2, it is not clear if the "integral fastener receiving section" is the same element or a different element than the "fastener receiving portion" as cited in line 12 of claim 1. Until further clarification the claims have been examined as the "fastener receiving section" of claim 2 being the same as the "fastener receiving portion" of claim 1.

In claim 6, it is not clear if the "end wall" is the same element or a different element than the "end wall" cited in line 11 of claim 1. Until further clarification, the claims have been examined as the "end wall" of claim 6 being the same as the "end wall" of claim 1.

Clarification and correction is required.

5. Claims 2 and 15 recite the limitation "said fastener receiving section"; respectively, in line 2. There is insufficient antecedent basis for this limitation in these claims.

Claim Rejections - 35 USC § 102/103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. Claims 1-4,6,7 and 9-10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Patent #5,694,728 to HEATH, Jr. et al. In claims 1 and 7, the applicant is reminded that “substantially” clearly implies that something less than the exact amount can be required. HEATH, Jr. et al. discloses the use of a component (50) for receiving a plurality of extending siding strips (16) wherein the component (50) includes an elongate body (52) for abutting against a planar wall, column 5, lines 2-5, first and second (64) receivers “substantially” 180 degrees in opposite directions, see figure 2, each for receiving a portion a portion of the horizontally extending siding strips (16), and an outwardly bowed portion (colored red). Each receiver (64) is “substantially” U-shaped and includes a first wall (colored green) for at least partially covering the end of the siding strip (16), an end wall (EW) connected to the first wall (colored green), and a fastener receiving portion (60) for abutting the wall of the building (14), column 5, lines 2-5, see the marked attachment. Although the first and second receivers of the component of HEATH, Jr. et al. do not extend at exactly or precisely 180 degrees, they do extend “substantially” at 180 degrees in opposing directions. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the device of HEATH, Jr. et al. include receivers that extend “substantially” at 180 degrees in opposing directions. Regarding claim 2, as stated above, the system of HEATH, Jr. et al. includes integral fastener receiving portions (60). In reference to claims 3 and 4, the outwardly bowed portion (colored red) of HEATH, Jr. et al. is integrally connected to a portion of each

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receiver (64) and includes indicia (58), column 5, lines 11-13, that stimulates the appearance of the system. Regarding claim 6, as stated earlier, each receiver includes an end wall (EW), see the marked attachment. In reference to claim 7, the end walls (EW) are “substantially” parallel and are spaced apart. Regarding claim 9, the first wall (colored green) of each receiver (64) is indirectly integrally connected to an end of the outwardly bowed portion (colored red) through the end wall (EW); wherein, the outwardly bowed portion (colored red) simulates the appearance of a log, column 5, lines 11-13. In reference to claim 10, the fastener receiving portion (60) is elongated relative to the first wall (colored green) of the corresponding receiver (64).

9. Claims 11-13 and 15-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Patent #5,694,728 to HEATH, Jr. et al. In claims 11-13, the applicant is reminded that “substantially” clearly implies that something less than the exact amount can be required. HEATH, Jr. et al. discloses the use of a vertically extending component (50) for receiving at least a first and at least a second “substantially” horizontally extending siding strips (16) wherein the component (50) includes an elongate body (52) for abutting against a planar wall, column 5, lines 2-5, first and second (64) receivers “substantially” 180 degrees in opposite directions, see figure 2, each for receiving a portion a portion of the horizontally extending siding strips (16), and an outwardly bowed portion (colored red). Each receiver (64) is “substantially” U-shaped and includes a first wall (colored green) for at least partially covering the end of the siding strip (16), an end wall (EW) connected to the first wall (colored green), and a fastener receiving portion (60) for abutting the wall of the building (14), column 5, lines 2-5, see the marked attachment. Although the first and second receivers of

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the component of HEATH, Jr. et al. do not extend at exactly or precisely 180 degrees, they do extend “substantially” at 180 degrees in opposing directions. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the device of HEATH, Jr. et al. include receivers that extend “substantially” at 180 degrees in opposing directions. Regarding claim 12, the first and second siding strips (16) are positioned “substantially” in the same vertical plane (colored blue), see the marked attachment. In reference to claim 13, the first and second siding strips (16) are positioned “substantially” in the same horizontal plane (colored yellow), see the marked attachment. Regarding claim 15, the system of HEATH, Jr. et al. further includes at least one fastener (unlabeled), column 5, line 2-4, for fastening each fastener receiving portion (60) to the wall of a building (14). Regarding claim 16, the first wall (colored green) of each receiver (64) is indirectly integrally connected to and end of the outwardly bowed portion (colored red) through the end wall (EW); wherein, the outwardly bowed portion (colored red) simulates the appearance of a log, column 5, lines 11-13.

10. Claim 17 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Patent #5,694,728 to HEATH, Jr. et al. The applicant is reminded that “substantially” clearly implies that something less than the exact amount can be required. The structure of HEATH, Jr. et al. inherently discloses the method for installing a plurality of siding members (16) including the steps of providing an elongated component (50) having an outwardly bowed body (colored red), see the marked attachment, first and second receivers (64) extending at “substantially” 180 degrees in opposing directions, and a first wall (colored green), see the marked attachment; vertically orienting the elongated component (50);


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inserting the first end of the plurality of siding members (16) into one of a first or second receiver (64); inserting a second end of the plurality of siding members (16) into one of a first or second receiver (64); and affixing the siding members (16) to the wall (unlabeled) of a building (14), column 5, lines 2-5; wherein each receiver (64) includes a fastener receiving section (60) and the steps further include placing at least one fastener through the fastener receiving section (60), column 5, lines 11-13.

Response to Arguments

11. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.



Yvonne M. Horton
Primary Examiner
Art Unit 3635
December 1, 2003

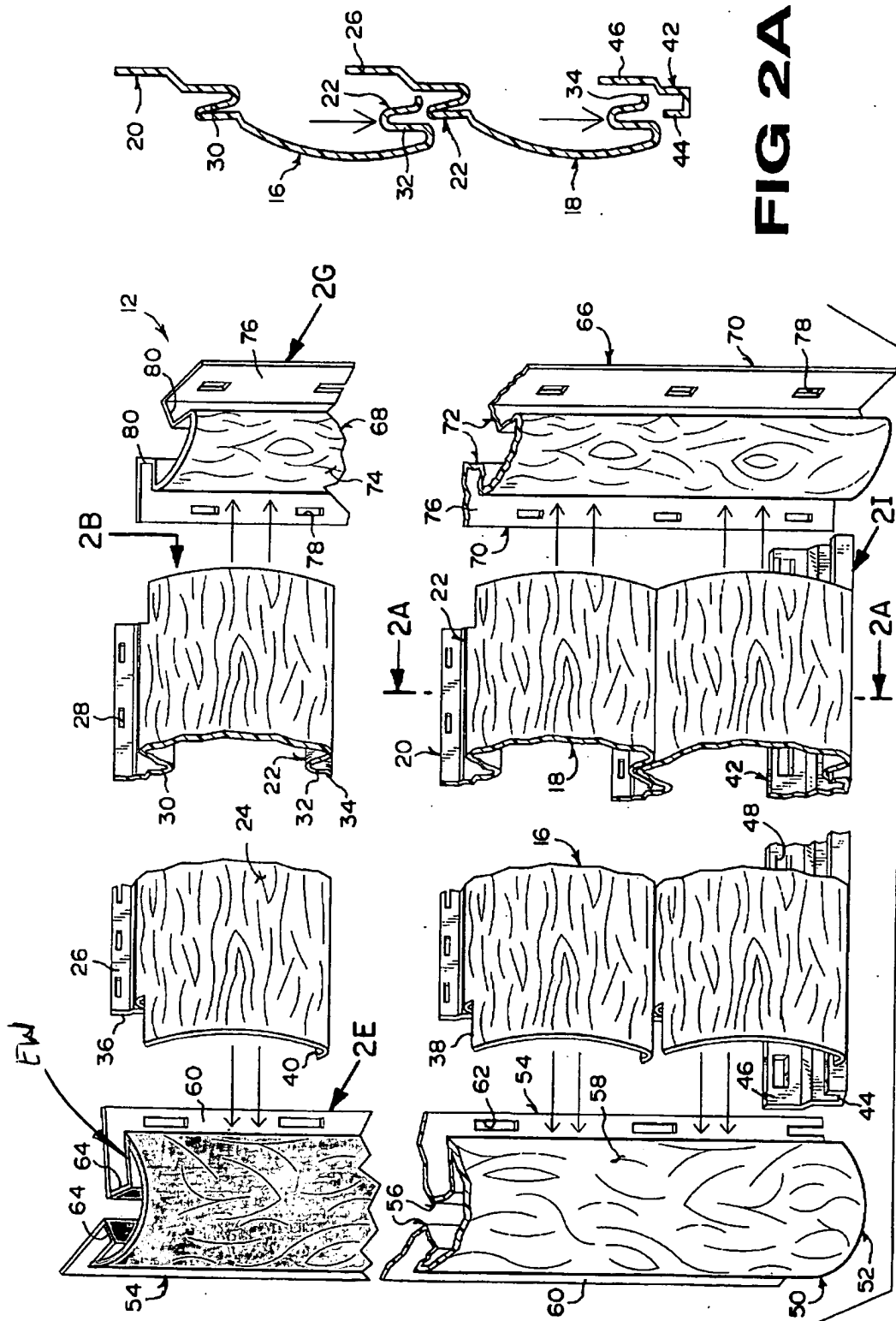


FIG 2

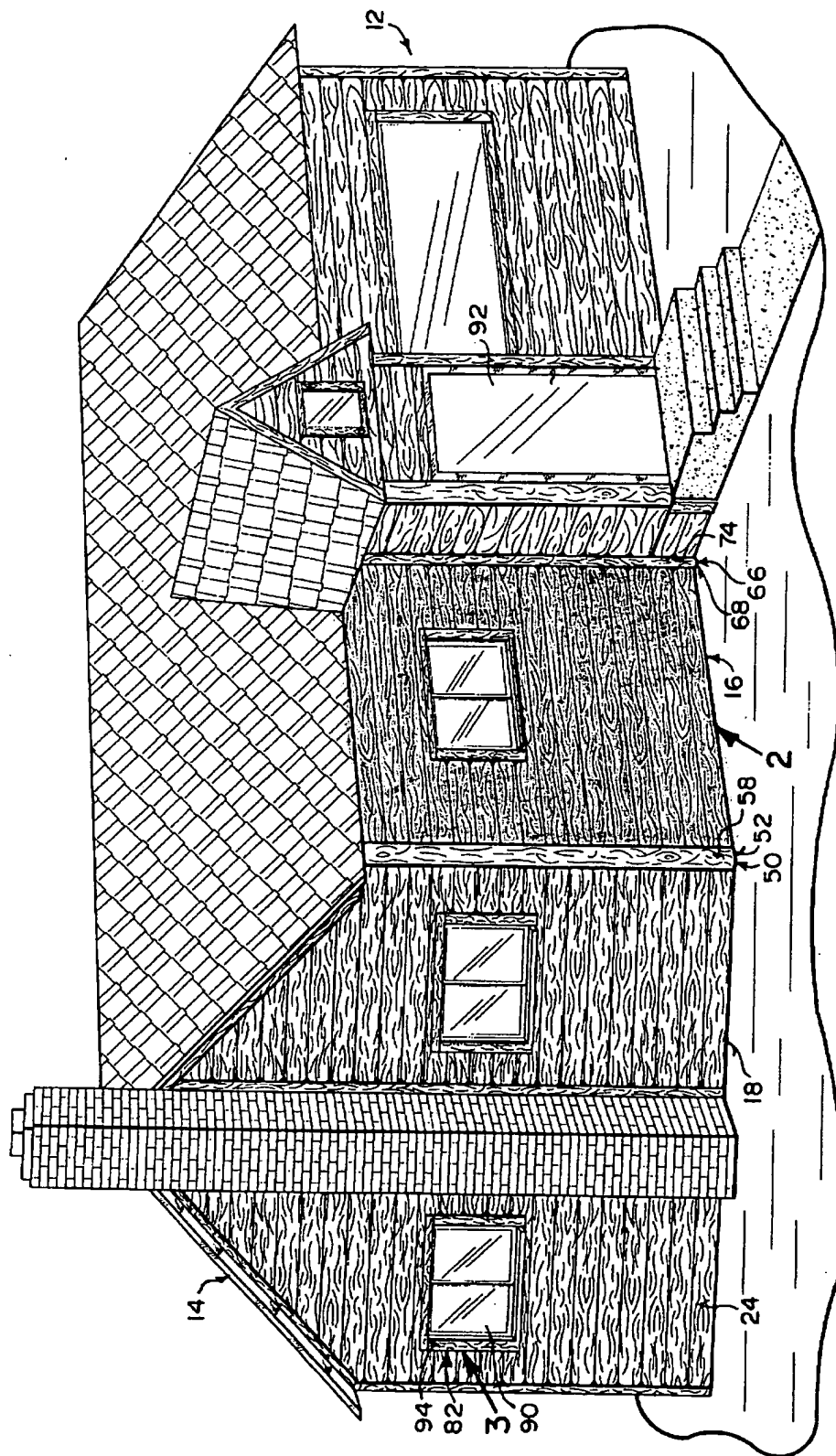


FIG 1

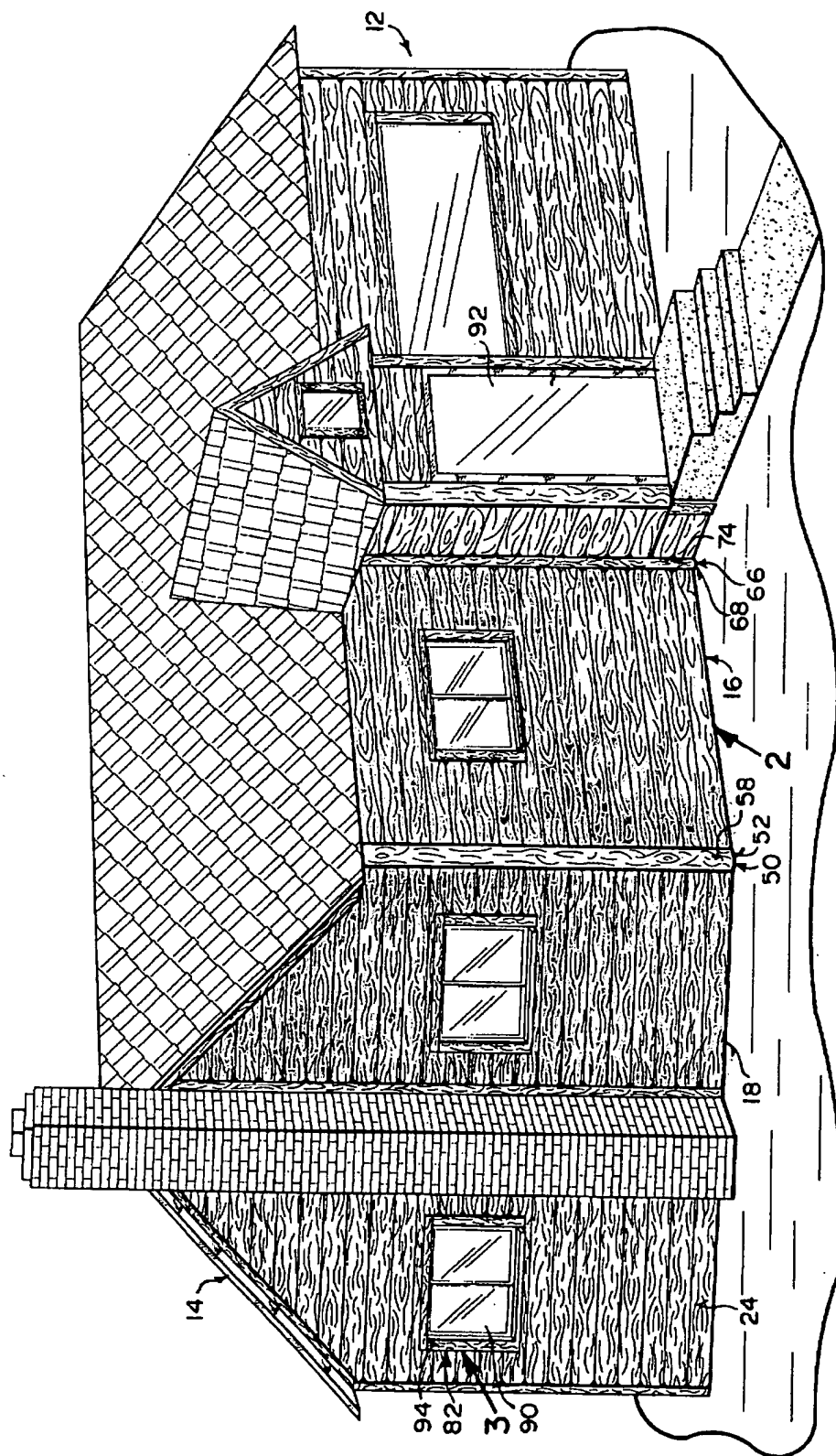


FIG 1